

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

Franconia Square, LLC :
6136 Franconia Road :
Alexandria, Virginia 22310 :

Plaintiff, :

v. : Case No.: 1:12cv1007

NOVA Petroleum Realty, LLC :
6820-B Commercial Drive :
Springfield, Virginia 22151 :

Defendant. :

PLAINTIFF'S MOTION TO AMEND COMPLAINT

Plaintiff Franconia Square, LLC, by and through its undersigned attorney, pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, respectfully moves this court for leave to amend the Complaint filed herein.

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, upon the pleadings and all prior proceedings herein, Plaintiff Franconia Square moves the Court for an order granting leave to file the within Proposed Amended Complaint as an amendment by leave of Court.

The grounds for this motion are as follows:

1. The original Complaint stated, but did not emphasize strongly enough, Defendant's ownership and responsibility for the property at the heart of the dispute. The attempted termination of Plaintiff's Franchise is being sought under the Petroleum Marketing Practices Act and the Defendant erroneously relies on a zoning violation for which it, and not the Plaintiff, is responsible.

2. The Plaintiff has diligently sought all records relevant to the Complaint and has discovered several since the date the Complaint was filed which emphasize the ownership and responsibility issue in addition to those previously included. These have been added as Plaintiff's Exhibits M through P.
3. The governing standard of Rule 15 is that this Court "should freely give leave when justice so requires, " Fed. R. Civ. P. 15(a)(2). This case is still in its earliest phases and no party will be prejudiced by allowing for a more complete picture of the clear lack of grounds suitable for the Defendant's attempted termination of Plaintiff's Franchise, as detailed in the Amended Complaint

For the foregoing reasons, Plaintiff prays that this Motion for Leave to Amend will be granted.

A true and correct copy of the proposed Amended Counterclaim is attached hereto and is made a part hereof by reference.

Dated October 18, 2012

Respectfully submitted,
Franconia Square, LLC
By Counsel

/s/
Douglas E. Bywater (VSB# 9137)
Tate, Bywater & Fuller, PLC
2740 Chain Bridge Road
Vienna, VA 22181
703 938-5100 Tel.
703 255-1097 Fax
debywater@tatebywater.com
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of October, 2012, I electronically filed the foregoing with the Clerk of the Court and sent via first class U.S. Mail, postage prepaid to:

John M. Luchak
Bassman, Mitchell & Alfano, Chartered
1707 L Street, N.W., Suite 560
Washington, DC 20036

/s/

Douglas E. Bywater